



Department of Energy
National Nuclear Security Administration
Office of the General Counsel
P. O. Box 5400
Albuquerque, NM 87185



July 24, 2019

SENT VIA EMAIL

74614-53656435@requests.muckrock.com

Mr. Martin Pfeiffer
MuckRock News
DEPT MR 74614
411A Highland Ave
Somerville, MA 02144-2516

RECEIPT OF FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Pfeiffer:

This letter acknowledges the receipt of your June 1, 2019 Freedom of Information Act (FOIA) request. You requested the following:

Reports, holdings, descriptions, photographs, artifact and item descriptions, loan agreements, histories, and other records associated with and that detail the purpose, operations, artefactual holdings and their management, and policies of the "NNSA Legacy Weapon Program."

It is the practice of the National Nuclear Security Administration, in accordance with Departmental policy, to process FOIA requests in the approximate order of the date received by this office. We will make every effort to respond to your request as quickly as possible. Although we are committed to responding to your request in a timely manner, we estimate that we will not be able to respond to your request in 20 working days. We need more time to complete the search of facilities geographically separated from this office, review the record(s) for release, and prepare the response to you, as some requests, depending upon the volume of records, the complexity of the search, and/or the sensitivity of the subject matter, require additional time to complete. Reformulating or otherwise narrowing the scope of your request may result in a quicker processing time.

In your FOIA request you identified yourself in the educational/scientific category for fee purposes. The agency asked you for clarification regarding the intended use of the requested documents, to which you replied that you intend to use the material as part of your PhD research and for analysis and dissemination through various platforms. In the same statement of intended use, you provided additional uses of the requested material, alternately designating yourself as a member of the news media. You stated that you have an intent and ability to disseminate the requested material through both yourself and via other publishing outlets. Your request for that

fee category is denied because we have determined the use of records you requested is for your commercial or profit interest because you also charge a fee to patrons of your website for viewing/accessing records the agency provides to you. Based on our determination you are categorized as a "commercial use requester." Therefore charges will be assessed to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Our agency will recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records. This request is currently pending and processing will begin once we are notified of your willingness to either pay all fees, or notify us of the exact dollar amount of fees you are willing to pay, in accordance with 10 CFR § 1004.4(e). If we do not receive a response regarding your willingness to either pay all fees or your willingness to pay fees up to a stated dollar amount by August 2, 2019 we will consider your request invalid and will close it with no further action.

You may appeal our denial of fee category pursuant to 10 CFR § 1004.8(a). Such an appeal must be made in writing within 90 calendar days after receipt of this letter, addressed to the Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, 1000 Independence Avenue SW, L'Enfant building, Washington, DC 20585. Your appeal must contain a concise statement of the grounds for the appeal and a description of the relief sought. Please submit a copy of this letter with the appeal. Please clearly mark both the envelope and the letter "Freedom of Information Appeal." You may also submit your appeal by e-mail to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line. Thereafter, judicial review will be available to you in the District of Columbia or in the district where (1) you reside, (2) you have your principal place of business, or (3) the Department's records are situated.

You may contact me, as NNSA's FOIA Public Liaison at 1-866-747-5994, or by mail at Department of Energy, National Nuclear Security Administration, Office of the General Counsel, PO Box 5400, Albuquerque, NM 87185, for further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

If you have questions concerning the processing of this request, please contact Erica White by e-mail at Erica.White@nnsa.doe.gov, or write to the address above. Please reference Control Number FOIA 19-00237-EW in your communication.

Sincerely,

A handwritten signature in black ink that reads "Pamela Arias-Ortega". The signature is fluid and cursive, with the first name "Pamela" being the most prominent part.

Pamela Arias-Ortega
Authorizing & Denying Official

DOC. NAME FOIA 19-237-EW Martin Pfeiffer
REQ. NO.
RTG. SYMBOL
INITIALS/SIG
DATE
RTG. SYMBOL <i>I. Hernandez</i>
INITIALS/SIG <i>See email in folder</i>
DATE
RTG. SYMBOL <i>P. Arias-Ortega</i>
INITIALS/SIG <i>PAO</i>
DATE <i>7/24/19</i>